## REMARKS

The Office Action mailed August 23, 2007, rejected Claims 1, 93, and 94 under 35 U.S.C. § 112, second paragraph, as being indefinite. In addition, Claims 1-104 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shoham (U.S. Patent No. 6,285,989), in view of Paiz (U.S. Patent No. 7,058,601). Applicant has amended Claims 1, 93, and 94, and has added new Claims 105-112. Claim 100 has not been amended and will be discussed in greater detail below, after a discussion of Claims 1, 93, and 94. Applicant has considered the Office Action and the comments provided therein, and submits that all claims presented herewith are in allowable condition.

### Interview Summary

Prior to discussing the patentability of the claims, the undersigned counsel thanks Examiner Graham for the time and courtesy he extended in a personal interview conducted December 3, 2007. In summary, the language of Claim 1 was discussed relative to the rejection under Section 112. Amended language to clarify the claim was discussed and is presented herewith. Similar amendments are presented with respect to Claims 93 and 94, and similar language is introduced in new Claims 105 and 109.

### Patentability of Claims 1-104

The following introductory discussion is repeated from a prior response in the present application as it remains helpful to an understanding of the patentability of the claims.

An "order umpire" or "oU" as described in the present application may be considered a formal or informal market that defines and implements the rules of engagement by which items are exchanged between "electronic liquidity finder" programs (otherwise referred to as ELFs). As explained at page 5, lines 14-18, of the application as filed, an umpire is formed by configuring a market program with configurations from a market provider, and executing the configured program on a computer platform of system 5 to create a "market process." This market process operates as directed by the selected market methodology as claimed.



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

An ELF may be thought of as a virtual floor broker that operates at electronic speeds. Forming an ELF is the culmination of a procedure involving configuring an order-handling program with specifications from a trader, and executing the configured program on the computer platform of system 5 to create an order-handling engine, also referred to herein as a trading process. As claimed, the trading processes and the market process are computer program entities executing on the computer platform. Orders and inquiries may be received at the market process (order umpire) and in response price information is returned.

Values are specified for the market process in which the values indicate (1) the maximum amount of time for the market process to return a price for an item in response to receiving an order or inquiry, (2) the pricing methodology used by the market process to determine the price for the item, and (3) the amount of time that the price can be relied upon for executing a trade after the price is returned. Furthermore, as claimed, the market process publishes these values to a plurality of trading processes. For example, page 13, line 30, to page 17, line 22, of the present application, and particularly the paragraph bridging pages 13-14, discuss various parameters that are relevant to discovery. These parameters are specified on an umpire-by-umpire basis, and include "T1 Maximum time an umpire takes to return a price," "METHOD Pricing methodology (to determine price)" and "T2 Amount of time for which the returned price is good (executable)." As also explained in the specification:

- An umpire publishes its rules and ELFs either agree to those rules by registering with that umpire, or they do not register. (See page 3, paragraph [0050], of the present application as published.)
- When an order umpire is providing discovery with auction mode, the order umpire responds to price inquiries after an interval of up to a published delay time. (See page 12, paragraph [0218], of the present application as published.)
- After oU 30 is setup, oU 30 makes information about its order handling methodology and parameter values available to all oEs on system 5, such as by



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

publishing this information in a file accessible to all oEs. (See page 28, paragraph [0473], of the present application as published.)

- oU 30 follows its published market methodology in responding to discover requests, including considering contra-party preference information, disclosure level compatibility between booked orders and the inquiring party, and so on. (See page 31, paragraph [0541], of the present application as published.)

Withdrawal of the Section 112 Claim Rejections is Proper

Turning now to the Office Action, applicant has carefully considered each of Claims 1, 93, and 94, and respectfully submits that the amended language presented in the claims is definite and meets the requirements of 35 U.S.C. § 112, second paragraph. Applicant requests withdrawal of the claim rejections under Section 112.

Withdrawal of the Section 103 Claim Rejections is Proper

As to the substantive claim rejections in the Office Action, Shoham allegedly describes a system that can be used to construct an online auction from software building blocks. Applicant submits that Shoham does not teach or suggest all of the elements recited in each of Claims 1, 93, and 94. Accordingly, the disclosure of Shoham alone does not support a rejection of the claims. The Office Action recognized at least one of the deficiencies in Shoham and attempted to overcome the deficiency by citing the disclosure of Paiz. However, Paiz is unavailing in that regard.

The Office Action (pages 3 and 4) cited Paiz for allegedly teaching a market methodology having values specified for how long its price can be relied upon. Paiz teaches no such thing. At best Paiz teaches that *an authorization* to trade can be given to an end-user for a "pre-established length of time within pre-agreed cost variation parameters." See Col. 1, lines 50-55; Col. 4, lines 5-9; and Col. 5, lines 16-19, of Paiz. Granting an authorization to trade for a specified time period does not constitute specifying a value for "how long its price for the item can be relied upon after the price is returned to the trading process from which the order



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

was received." Even if Paiz could be combined with Shoham (which applicant denies), the combination still fails to teach or suggest all of the elements recited in Claim 1.

Applicant traverses the rejection of Claim 1 based on Shoham and Paiz, and requests reconsideration of the same. The subject matter set forth in Claim 1, and the manner in which the subject matter is arranged, is neither taught nor suggested by Shoham and/or Paiz (alone or combined). Accordingly, Claim 1 is patentable over the prior art.

To reject independent Claims 93 and 94, the Office Action repeated the same allegations used to reject Claim 1. Where Claims 93 and 94 include elements similar to those set forth in Claim 1, applicant submits that Claims 93 and 94 are patentable over Shoham and Paiz for the same reasons as Claim 1. The disclosures of Shoham and Paiz, alone or combined (if such combination is possible), do not teach or suggest all of the elements recited in Claims 93 and 94.

Claims 2-92 and 95-99 are also in patentable condition, both for their dependence on patentable Claims 1 and 94, and also for the subject matter they separately recite. Notably, for all the claims in the present application, the Office Action cited identical portions of Shoham (namely, Col. 1, lines 35-67; Col. 2, lines 11-34 and 52-67; Col. 4, lines 37-54; Col. 5, lines 28-36; Col. 6, lines 10-40; Cols. 7 to 8, lines 1-66; Col. 12, lines 7-37; Col. 13, lines 33-54; and Col. 14, lines 4-41). Applicant has considered these portions of Shoham, and indeed all of the Shoham reference, and does not find any disclosure in Shoham that anticipates or renders obvious the elements claimed in the present application.

Moreover, the disclosure of Paiz is insufficient to overcome the above-noted deficiencies of Shoham. Should the Patent Office maintain the claim rejections based on Shoham and Paiz, greater particularity of explanation is needed for rejecting the subject matter in each of the claims.

In view of the above, applicant requests reconsideration and allowance of Claims 1-99.

Claim 100 is directed to a method of providing a market process that includes detecting that a next book price will be worse than a previous book price according to a market



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

methodology selected from a set of market methodologies. According to Claim 100, the method further includes notifying a crowd of an opportunity to improve upon the next book price, receiving a crowd price from the crowd, and providing the crowd price as a response when the crowd price is better than the next book price.

The Office Action rejected Claim 100 citing precisely the same portions of Shoham and using precisely the same arguments raised against the previous claims. The Office Action conceded that Shoham fails to teach or suggest "how long its price can be relied upon," which applicant appreciates, but this is not applicable to Claim 100.

The disclosure of Shoham is not concerned with comparing a next book price to a previous book price, and further is not concerned with sending price improvement notifications to anyone. Applicant has considered the disclosure of Paiz and finds nothing that teaches or suggests these elements to overcome the deficiencies of Shoham.

Accordingly, Claim 100, and its dependent Claims 101-104, are all patentably distinguished over Shoham and Paiz.

Patentability of New Claims 105-108

New Claim 105 is directed to a computer system that provides a market process for trading an item between at least two trading processes. The computing system comprises a computing component that operates in accordance with a selected market methodology in which the market methodology comprises rules of engagement for trading an item between at least two trading processes. The selected market methodology includes specified values that indicate (i) a maximum amount of time for the market process to return a price for an item in response to receiving an order for the item, (ii) a pricing methodology used by the market process to determine the price for the item, and (iii) an amount of time that the price for the item can be relied upon for executing a trade after the price is returned. The computing component further has published the specified values for the market methodology to a plurality of trading processes,



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

wherein the trading processes and the market process are each computer program entities executing on the computer system.

The computing component, as claimed, further operates to receive a communication from at least one trading process for trading an item with another trading process according to the selected market methodology and to process the communication according to the selected market methodology.

Neither Shoham nor Paiz, alone or in combination, teaches or suggests all of the elements recited in new Claim 105. Accordingly, Claim 105 is patentable over the cited art. Dependent Claims 106-108 are also in patentable condition, both for their dependence on an allowable base claim and for the additional subject matter they recite. For example, as per Claim 106, the communication is an order for trading the item with another trading process according to the selected market methodology. As per Claim 107, the communication is an inquiry for trading the item with another trading process according to the selected market methodology. In Claim 108, the computer system further operates to determine whether the market process has authority to execute the order and to execute the order according to the selected market methodology after the market process has determined that it has authority to execute the order.

Examination and allowance of Claims 105-108 is requested.

Patentability of New Claims 109-112

Claim 109 is directed to a computer-readable medium that has computer-executable instructions stored thereon. The instructions, when executed by a computer, cause the computer to provide a market process for trading an item between at least two trading processes by:

- selecting a market methodology from a set of market methodologies, in which each of the market methodologies comprises rules of engagement for trading an item between at least two trading processes;
- specifying values for the selected market methodology in which the values indicate (i) a maximum amount of time for the market process to return a price for



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

an item in response to receiving an order for the item, (ii) a pricing methodology used by the market process to determine the price for the item, and (iii) an amount of time that the price for the item can be relied upon for executing a trade after the price is returned;

- publishing the specified values for the selected market methodology to a plurality of trading processes;
- receiving a communication from at least one trading process for trading an item with another trading process according to the selected market methodology; and
- processing the communication according to the selected market methodology.

Neither Shoham nor Paiz teaches or suggests all of the elements recited in new Claim 109. Accordingly, Claim 109 is patentable over the cited art. Dependent Claims 110-112 are also in patentable condition, both for their dependence on an allowable base claim and for the additional subject matter they recite. For example, as per Claim 110, the communication is an order for trading the item with another trading process according to the selected market methodology, and as per Claim 111, the communication is an inquiry for trading the item with another trading process according to the selected market methodology. In Claim 112, the computer-executable instructions further cause the computer to determine whether the market process has authority to execute the order, and to execute the order according to the selected market methodology after the market process has determined that it has authority to execute the order.

Examination and allowance of Claims 109-112 is requested.



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

## CONCLUSION

The disclosures of Shoham and Paiz are defective and do not support a *prima facie* case of obviousness of Claims 1-112. Allowance of Claims 1-112 is requested. Should the Examiner identify any remaining issues needing resolution prior to allowance, the Examiner is invited to contact the undersigned counsel by telephone.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS[PLLC]

Kevan L. Morgan
Registration No. 42,015
Direct Dial No. 206.695.1712

KLM:jmb



LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS[PLLC]
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100